

ASBCE NEWSLETTER

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October 2004



ARKANSAS STATE BOARD OF CHIROPRACTIC EXAMINERS

BOARD MEMBERS

Beverly J. Foster, D.C., President

Mark S. Bradley, D.C., Secretary/Examination Officer

Robert L. Shackelford, D.C., Treasurer

Margaret Thompson, Public Member

Michael D. Courtney, D.C., Investigation Officer

Mark L. Ungerank, D.C., Member

Roland Getchell, Public Member

PROFESSIONAL STAFF

I
Carol Ann Stone, Executive Director
Sandy Kita, Administrative Assistant

INSIDE THIS ISSUE

- 1** President's Message
- 2** Calendar of Events New Licensees
ALERT
- 3** Election of Officer – Board Appointments
Advertising Talk
- 4** Complaints/Investigations
- 5** Chiropractic Scope of Practice

PRESIDENT'S MESSAGE

Dear Doctors:

As an Arkansas licensed chiropractor, you have the authority and privilege to practice chiropractic in this state. With that privilege, comes a responsibility to practice within the scope of your training and the Arkansas Chiropractic Practice Act.

This Board has been delegated the responsibility of licensing doctors of chiropractic and regulating the practice of chiropractic. The Board has a duty to monitor not only our doctors, but also anyone who might violate the Chiropractic Practices Act and put the public at risk.

Recently, the Board sanctioned a physical therapist for performing spinal manipulation without a chiropractic license. The Board's determination was appealed to Pulaski Circuit Court, where our action was affirmed. The physical therapist subsequently appealed that decision to the Arkansas Court of Appeals, where the case is now pending. This case has raised issues concerning the scope of practice and the authority of one professional licensing board to regulate those licensed by another board. These are not simple issues, and they become even more complicated in the legal context in which they are now found.

These issues have also attracted national attention. The American Chiropractic Association and the International Chiropractic Association, as well as the Federation of State Boards of Physical Therapy, have filed *amicus curiae* briefs with the Appeals Court. These filings, referred to as "friend of the court" briefs, allow participation by persons or organizations that are not parties to the litigation but believe that the court's decision may affect their interests.

(Continued on page 3)

CALENDAR OF EVENTS EVENT

CREDENTIALS MEETING

PLACE: **MAIN STREET MALL**

DATE: DEC. 9, 2004

ADJUDICATORY HEARING DATE: DEC. 9, 2004

EVENT

EXAMINATION & CREDENTIALS MEETING

PLACE: Main St. Mall, Conf. Room C

Date: Jan. 27, 2005

EVENT

Business Meeting: April 14, 2005

Credentials Meeting: June 9, 2005

Examination – Orientation: July 28, 2005

THE FOLLOWING CANDIDATES PASSED THE JANUARY 2004 EXAMINATION

Ronald Lieberman, DC

Charles Smith, DC

CANDIDATES WITH NATIONAL BOARD

PART IV

Alan Alexander, DC

Brandi Brooks, DC

Christopher Curtis, DC

Edward Darnel, DC

Kelly Davis, DC

Craig Kirchhoff, DC

Janice LaBrie, DC

Tessa Nguyen, DC

Timothy Nix, DC

Alex Racheotes, DC

Kristin Stobaugh-Spavale, DC

STATISTICS OF AR LICENSED

CHIROPRACTORS

As of September 2004

Licenses:	480	Active In-State
	34	Inactive
	93	Out-State

Acupuncture – 126

ALERT

PLEASE READ THE FOLLOWING CONCERNING CONTINUING EDUCATION CREDIT HOURS

In order to be in compliance with the Arkansas Chiropractic Practices Act, you must submit to this board each year evidence of having satisfactorily completed not less than 24 hours of continuing education acquired during the preceding twelve (12) months.

All continuing education courses must have PRIOR approval by this Board before credit can be given by 12/31/of each year.

***Always ask the college, association or institution sponsoring the seminar for an Arkansas Approval Number before attending the seminar for relicensure credit hours. This way you know in advance that the seminar has been approved.

All incomplete renewal applications will be returned to sender. Do not send in renewal without attaching CE certification; attendance records will not be accepted.

ELECTION OF OFFICERS

Pursuant to the provisions of Section §17-81-204(b) in July of each year officers for the Board of Examiners are elected.

Dr. Beverly J. Foster was elected President, Dr. Mark S. Bradley was appointed as the Secretary/Examination Officer, Dr. Robert Shackelford, Treasurer and Dr. Michael D. Courtney, Investigation Officer.

BOARD APPOINTMENTS

Under the provisions of the Arkansas Code Annotated §17-81-201 board members are appointed by the Governor for five year terms. Governor Mike Huckabee reappointed Dr. Michael Courtney to serve until June 9, 2009.

Governor Huckabee appointed Mr. Roland Getchell, Public Member of Pine Bluff, Arkansas. Mr. Getchell replaces Mr. Harold Gunter whose term expired on June 9, 2004.

We would like to thank Mr. Gunter for his continued support of the ASBCE and chiropractic. Mr. Getchell and Dr. Courtney have been elected to positions on this Board to diligently carry out responsibilities to the public.

LEGISLATIVE AUDIT

The legislative Auditor performed an internal control and compliance review for the two-year period ending June 30, 2003. The auditor found no negative findings and our report was reviewed and filed by the Legislative joint Auditing Committee on May 14, 2004.

PRESIDENTS MESSAGE

Dr. Beverly Foster, President/ASBCE

(Continued from page 1)

Thomas R. Daly, an attorney from Virginia representing the American Chiropractic Association, states in his brief how the dynamic thrust and resulting audible release or cavitation is the defining factor that distinguishes spinal manipulation from other forms of manual therapy. The ACA brief also explains how the chiropractic college curriculum emphasizes diagnosis and manipulative therapies and stresses the importance of proper training and education, preparing the doctor of chiropractic to perform spinal manipulation.

Henry M. Rubinstein, D.C. Esq., a licensed chiropractor and attorney from Florida, prepared the ICA's brief. His brief injects in the debate a discussion of the long history of discrimination against chiropractic by the American Medical Association and the irony of medical based health care's attempts to claim as its own what are in truth chiropractic techniques. Mr. Rubinstein states: "The ICA wants chiropractors who have endured decades of harassment to achieve and maintain the recognition they deserve for the benefits that they bestow upon the public and the physical therapists now want to claim as their own. The AMA, having been unable to eliminate or contain chiropractic, now appears to be re-naming the chiropractic procedures as physical therapy techniques where the purpose for the treatments are not to restore health in general as with Chiropractic Theory, a competition to medicine, but rather to relieve symptoms and ambulatory function, a mainstay of medicine."

Please join me in thanking these organizations as they strive to educate and protect the public.

Beverly J. Foster, DC, DABCO
President

Arkansas State Board of Chiropractic Examiners



BREAK DOWN OF COMPLAINTS/INVESTIGATION

Case # 213-01-8-04: Case closed
Case #214-01-23-04: No violation
Case #215-01-23-04: No violation
Case # 216-03-0- 04: No violation
Case #217-02-02-04: Hearing date scheduled 12/9/04
Case #218-03-15-04: Case closed
Case #219-03-19-04: Consent Agreement
Case #220-04-06-04: Under investigation
Case #221-04-06-04: Complainant withdrew complaint. Case closed
Case #222-04-12-04: Case closed
Case #223-05-20-04: No violation
Case #224-06-01-04: Letter to doctor advised to follow the Rules when advertising
Case #225-06-02-04: Complaint didn't fall under the jurisdiction of Board
Case #226-06-16-04: Letter to doctor to cease and desist from running ad as it appeared in newspaper.
Case #227-06-25-04: Doctor agreed to follow the Rules when advertising.
Case #228-08-16-04: Under investigation
Case #229-09-30-04: Under investigation

BOARD ACTION – CONSENT AGREEMENT

August 10, 2004 the Arkansas State Board of Chiropractic Examiners held a special meeting regarding case #219-01-19-04. Via telephone conference call the Board voted to accept a Consent Agreement, which required that Dr. Ronald Erwin attend and pay for the National Board of Chiropractic Examiners, 'Ethics and Boundaries Examination' to be conducted on September 10, 2004.

The Board of Examiners has appointed Dr. Michael Courtney as their Investigation Officer. Dr. Courtney has served five years as an appointed board member and the Governor recently appointed Dr. Courtney to another five years, which began June 2004. Congratulations to Dr. Courtney!

One role of the Investigation Officer is dealing with practitioners who are accused of misconduct. The seriousness of these matters makes it prudent that they are treated without prejudice. There is a responsibility for contributing to fair determination to problems and for aiding the regulatory entity to operate efficiently. Investigative Committee members are well learned in the Rules & Regulations that govern chiropractic and are well qualified to apply the profession's rules and regulations in a fair, unbiased manner. They delay making judgments until adequate evidence is in and has been fully investigated.

We receive calls quite often from chiropractic physicians requesting copies of the 'Chiropractic Scope of Practice'. Please keep this on file for your reference.

ARKANSAS CHIROPRACTIC SCOPE OF PRACTICE

§17-81-102 (3)(A) 'Practice of chiropractic' means the engagement in the diagnosis and analysis of any interference with normal nerve transmission and expression, and the procedure preparatory to and complementary to the correction thereof by an adjustment of the articulations of the vertebral column, its immediate articulations, including spinal adjustments, spinal manipulations and spinal mobilizations, such as any type of pressure, force, thrust or passive movement, singular or plural, applied to the spinal vertebrae or their adjacent articulations by hand or mechanical device or by other incidental adjustments, for the restoration and maintenance of health. The practice of chiropractic includes therapy, the normal regimen, and rehabilitation of the patient for the purpose of removing any injury; deformity or abnormality of human beings without the use of drugs or surgery.

(B) The practice of chiropractic, as authorized under the provisions of this chapter shall not include the performance of the duties of a midwife or obstetrician, therapy by the use of ionizing radiation, incision surgery, prescribing for or administering to any person any drug to be taken internally, or puncturing the skin for the purpose of introducing any substance into the body. Nothing herein shall prevent puncturing the skin for routine blood analysis, including red blood count, white blood count, differential and serology, in the practice of chiropractic for diagnostic purposes;

- (4) 'Analysis' includes physical examination, the use of x-ray and other analytical instruments and procedures generally used in the practice of chiropractic.
- (5) 'Spinal manipulation' and "adjustment" mean the skillful or dexterous treatment whereby a corrective force or passive movement of the joint is made to realign vertebrae or articulations to their normal juxtaposition;
- (6) 'Chiropractic aide' means an unlicensed member of the chiropractic team who may assist a chiropractic physician in the performance of those procedures and techniques constituting the practice of chiropractic as defined in this chapter with the exception of spinal manipulation and adjustment, provided that such assistance shall be performed under the direct supervision of a licensed chiropractic physician; and
- (7) 'Physician' means a person authorized or licensed to practice medicine pursuant to the Arkansas Medical Practices Act, §17-93-201 et seq., a person authorized or licensed to practice chiropractic pursuant to the provisions of this chapter, and a person authorized to practice osteopathy pursuant to §17-90-101-§17-90-103.

CARDIO-PULMONARY RESUSCITATION (CPR)

DO YOU NEED TO LEARN CPR?

Why Learn CPR?

- One in seven people will have the opportunity to use CPR in their lifetime.
- About two-thirds of deaths from heart attack occur before the victim reaches the hospital.
- CPR provides oxygen to the brain and other vital organs to give the victim the best chance of full recovery after EMS takes over.
- If CPR is given within the first 4 minutes of a cardiac arrest, the chances of survival double.
- Many deaths can be prevented if the victim receives prompt help – if someone trained in CPR provides proper life-saving measures.

CPR Today!

Cognitive skills program closely parallels stringent professional education criteria of courses conducted by the American Red Cross and the American Heart Association. The ASBCE strongly urges all licensees to contact one of these organizations and sign up for one of their CPR certification courses.

It is a team building activity, which demonstrates a sentiment of 'We care' – for each other, and for your patients, as well.



VA BEGINS CHIROPRACTIC CARE

Veterans can receive chiropractic care at 26 selected VA facilities beginning this fall, as announced by Secretary of Veterans Affairs, Anthony J. Principi. The VA will hire or contract with doctors of chiropractic to provide the care. In consultation with VA primary care providers, doctors of chiropractic will offer patient evaluations and chiropractic care for neuromusculoskeletal conditions.

Locations where chiropractic care will be provided include Togus, Maine; West Haven and Newington, Conn.; Buffalo and Bronx, N.Y.; Butler, PA; Martinsburg, W.Va.; Columbia, S.C.; Augusta, GA; Tampa & Miami, Fla.; Mt. Home, TN; Columbus, Ohio; Danville, IL; Iron Mt., MI; Kansas City, KS; Jackson, MS; San Antonio, Temple, and Dallas, TX; Albuquerque, NM; Ft. Harrison, Mont.; Seattle, WA; Sacramento & Los Angeles, CA; and Sioux Falls, SD. Eligible veterans in areas distant from these locations will also be able to receive chiropractic care through the VA's outpatient fee-basis program after a referral by their primary care provider and prior authorization by the department. The VA was authorized to offer chiropractic care and services under the provisions of section 204 of Public Law 107-135, the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001.

REMINDER - ACUPUNCTURE RULE

5. (a) A chiropractic physician licensed to practice chiropractic pursuant to Arkansas Chiropractic Practices Act, shall be entitled to practice acupuncture as part of chiropractic practice upon completion of one hundred (100) hours training in acupuncture/meridian therapy from a college accredited by the Council on Chiropractic Education.
- (b) Prior to any chiropractor physician engaging in the practice of acupuncture/meridian therapy, said physician shall be required to submit to the Board of Examiners a certificate of completion of one hundred (100) hours instruction in acupuncture/meridian therapy.

THE ASBCE APPROVES A NEW POSITION STATEMENT

The Arkansas State Board of Chiropractic Examiners has approved a Position Statement regarding "*PROTOCOL FOR THE USE OF DIGITAL MOTION X-RAY/VIDEOFLUROSCOPY.*" Digital motion x-ray/videofluroscopy is used for the evaluation of suspected intersegmental joint dysfunction, which has not been adequately demonstrated by other methods. The Arkansas State Board of Chiropractic Examiners concurs with the American College of Chiropractic Radiology's position that digital motion x-ray/videofluroscopy is no longer considered investigational within the chiropractic profession.

ADVERTISING TALK

In an era wherein providers have begun to market their services aggressively, deceptive health care advertising poses significant risks to the public. The ASBCE has experienced an increase in advertising complaints. Deceptive advertising by physicians is unacceptable and must be detected and challenged.

Advertising by chiropractic physicians should be dignified, ethical and professional, not necessarily limited to, but preferably of an educational or informative nature or as a statement of basic fees.

When advertising FREE SERVICES patients must sign a disclosure statement, which describes the free service, and informs the patient of services for which there is a charge. Advertising of x-ray services is restricted. It is unprofessional and not in the public interest for chiropractic physicians to over-utilize x-ray services. Advertising free x-ray services without explanation of need or otherwise implying indiscriminate use of x-radiation is prohibited.

Limitation to advertising free or reduced charges: The offering by doctors of chiropractic in advertising or other solicitation to the public of initial services at no charge or reduced charges shall be considered misleading or untruthful if, no-charge or reduced-charge visit are not specified in such advertisement, which are provided on the same visit and are hidden to the patient or not explained in advance to the patient.

The ABCE would like to encourage all licensees to adhere to the Rules & Regulations when advertising. PLEASE always refer to the Rules & Regulations under D. ADVERTISING BY CHIROPRACTIC PHYSICIANS before advertising.